

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 15-1637-SJO (KS) Date: December 2, 2015

Title Jason Eugene Archuleta v. Unknown

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

c/s
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On October 13, 2015, Jason Eugene Archuleta (“Petitioner”), a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus (“Petition”) (Dkt. No. 1) and a request to proceed *in forma pauperis* (Dkt. No. 2). According to the Petition, Petitioner is serving a term of twenty four months in state prison resulting from a June 5, 2013 conviction for robbery (Cal. Penal Code § 211-3). (Petition at 2.) Petitioner indicates that he pled guilty to the robbery charge in a trial before a judge only and his conviction became final on September 3, 2013. (*Id.*)

The Petition purports to assert three grounds for habeas relief, which he characterizes as a speedy trial claim, a “convenience to government” claim, and a “double jeopardy” claim. (Petition at 5-6.) On October 15, 2015, the Court dismissed the Petition with leave to amend for failure to state a cognizable claim for habeas relief, untimeliness, and lack of exhaustion. (Dkt. No. 4.) The Court ordered Petitioner to file, no later than November 16, 2015, a First Amended Petition in which he specifically identifies the federal nature of, and factual allegations underpinning, each claim for habeas relief and either demonstrates timeliness or seeks equitable tolling. The Court expressly warned Petitioner that his failure to file a First Amended Petition could result in a recommendation for dismissal.

More than two weeks have passed since the deadline for Petitioner to file a First Amended Petition, and Petitioner has neither complied with the Court’s October 15, 2015

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Order nor otherwise communicated with the Court regarding his case. Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, an action may be subject to involuntary dismissal if the party bringing the suit “fails to prosecute or to comply with these rules or a court order.” Accordingly, the Court could properly recommend dismissal of the action for Petitioner’s failure to timely comply with the Court’s Order of October 15, 2015 Order.

However, in the interests of justice, Petitioner is **ORDERED TO SHOW CAUSE on or before December 28, 2015**, why the Court should not recommend that this action be dismissed for failure to prosecute. If Petitioner wishes to proceed with the Petition, he may discharge this Order by filing: (1) a declaration signed under penalty of perjury that establishes good cause for Petitioner’s failure to comply with the Court’s October 15, 2015 order; *and* (2) a First Amended Petition. Alternatively, if Petitioner does not wish to pursue any of the dismissed claims, he may file a document entitled Notice Of Voluntary Dismissal.

Petitioner is advised that the failure to timely respond to this order and establish good cause for his failure to comply with the October 15, 2015 order may result in the dismissal of his case pursuant to Fed. R. Civ. P. 41(b) and Local Rule 41-1.

IT IS SO ORDERED.

Initials of Preparer

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